REMARKS

Claims 1-18 were examined by the Office, and in the Office Action of July 30, 2007 all claims are rejected. With this response no claims are amended, canceled or added. Applicant respectfully requests reconsideration and withdrawal of the rejections in light of the amendments and following remarks.

Claim Rejections Under § 102

In section 4, on page 3 of the Office Action, claims 1-18 are rejected under 35 U.S.C. § 102(e) as anticipated by Robarts et al. (U.S. Appl. Publ. No. 2004/0002843). Applicant respectfully submits that claim 1 is not disclosed or suggested by Robarts, because Robarts fails to disclose or suggest all of the limitations recited in claim 1. Robarts at least fails to disclose or suggest detecting an initiation event for establishing a simulated communication in a terminal device, generating a simulated message related to the determined properties of the initiation event by accessing a standard communication functionality of the terminal device, and presenting the simulated message via the standard communication functionality of the terminal device, as recited in claim 1.

In contrast to claim 1, Robarts only discloses that the external sensed events and parameters are used as events within an already running simulation of Robarts, and are not used as initiation events for the simulation. Instead, a user of the system discussed in Robarts first has to start a game, i.e. the Spook game, in order to invoke all of the functions discussed in Robarts. See Robarts paragraph [0101]. In contrast, claim 1 recites that an initiation event is detected for establishing a simulated communication, and therefore in contrast to Robarts the invention can run in the background of the normal functions of the terminal device, and rely upon the initiation events in order to generate the simulated messages related to the determined properties of the initiation event.

In addition, claim 1 recites that the simulated message has the appearance of a typical message of the standard communication functionality. The Office states that changing states of the device in Robarts by ringing, text, audio or graphic form correspond to a typical message of the standard communication functionality. However, while the simulation engine of Robarts may

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communicate with a user by changing some state of the user's device, by blinking a light for example, this only means that the simulation engine at most can indicate to the user of the presence of a communication from the simulation engine. The blinking of a light or ringing of a cell phone is not a simulated message that has the appearance of a standard communication functionality of the cell phone. Instead, these indications only notify the user of the device that a communication is present or incoming. Therefore, for at least this reason Robarts fails to disclose or suggest all of the limitations recited in amended claim 1.

Furthermore, as previously acknowledged, the filing date of Robarts (May 13, 2003) is after the priority date of the present application, October 30, 2002, since the present application is the U.S. national stage of International Application No. PCT/IB02/004512. However, Robarts does claim priority to provisional application No. 60/380,552 filed May 13, 2002, and therefore is only available as a reference to the extent that the provisional application supports the subject matter relied upon to make the rejection in compliance with 35 U.S.C. § 112, first paragraph. See MPEP § 2136.03. In rejecting claim 1 of the present application, the Office relies upon paragraphs [0090]-[0092] and [0099] of Robarts to teach that the simulated message has the appearance of a typical message of the standard communication functionality, since it is asserted that the cited paragraphs disclose describing the simulation engine interacts with the user device when the user types in not-canned questions in many ways, including changing states of the device, ringing, text, audio or graphic form. However, this subject matter relied upon by the Office is not supported by the provisional application in a manner that complies with the written description requirement or the enablement requirement of § 112, first paragraph. See MPEP § 2161.

The written description requirement of the first paragraph of § 112 requires a disclosure that describes the relied upon subject matter in sufficient detail that one skilled in the art can reasonably conclude that the inventor had possession of the subject matter. See MPEP § 2163.02. The provisional application of Robarts only states that "Future releases will allow entering freeform questions using the keypad or voice," on page 18 of the provisional application. This suggestion that future releases will provide for freeform questions, i.e. not-canned questions, does not describe the subject matter relied upon in Robarts to reject claim 1 in

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sufficient detail to indicate that the inventors had possession of the subject matter. In fact, the terms "future release" indicate that the inventors were merely stating future possibilities and at the time the provisional application was filed did not have possession of a system that allowed for the entering of freeform questions. Therefore, the subject matter relied upon in rejecting claim 1 at least fails to comply with the written description requirement of § 112, first paragraph.

Furthermore, the enablement requirement of § 112, first paragraph requires a disclosure sufficient to allow one of skill in the relevant art to make and use the invention, and in this case, the subject matter relied upon in rejecting the claims. See MPEP § 2164. However, as mentioned above, the provisional application of Robarts is completely devoid of any discussion of how to implement entering of freeform questions, and specifically states that this functionality will be left for "future releases." Without any direction or suggestion from the provisional application, one of skill in the art would be required to engage in undue experimentation using the discussion of the provisional application to arrive at the subject matter relied upon in Robarts to reject the claims. See MPEP § 2164.01. Therefore, the provisional application of Robarts also fails to comply with the enablement requirement of § 112, first paragraph. Accordingly, the subject matter relied upon in Robarts with regards to the simulation engine interacting with the user when the user types in non-canned questions is not supported by the provisional application, and is unavailable for rejecting the claims of the present application. For at least this additional reason, claim 1 is not disclosed or suggested by Robarts.

Claims 13 and 16-17 contain limitations similar to those recited in claim 1. Therefore, for at least the reasons discussed above in relation to claim 1, claims 13 and 16-17 are not disclosed or suggested by Robarts.
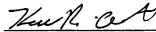
The claims depending from independent claims 1, 13 and 16-17 are also not disclosed or suggested by Robarts at least in view of their dependencies.

Conclusion

The rejections of the Office Action having been shown to be inapplicable, withdrawal thereof is requested, and passage to issue of the present application is earnestly solicited. The undersigned hereby authorizes the Commissioner to charge Deposit Account No. 23-0442 for any fee deficiency required to submit this response.

Respectfully submitted,

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